

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

)	Directive for Amended Complaint No. 98-099
In the matter of:)	Administrative Civil Liability
)	for
Beneto Inc. Truck Terminal)	Violations of the California Water Code
3201 East 69th Street)	Section 13376
Long Beach, CA 90805)	
)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Beneto Inc. Truck Terminal is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Board), may impose civil liability pursuant to Section 13385 of the California Water Code (CWC).
2. On April 22, 1999, a hearing on this matter was held before the Regional Board during a public meeting in the Council Chambers, Camarillo City Hall, 601 Carmen Drive, Camarillo, California. You and/or your representative(s) had an opportunity to be heard and to contest the allegations in this complaint and the imposition of civil liability by the Regional Board.
3. At the hearing, the Regional Board considered whether to affirm, reject or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The State of California has adopted a General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The General Permit requires facilities to submit a Notice of Intent (NOI) if the facility presents an exposure threat to storm water runoff as prescribed by the General Permit.
5. On March 3, 1992, Beneto Inc. Truck Terminal (Permittee) filed an NOI signed by Mr. Howard W. Shook to comply with the terms of the General Permit. The Permittee re-enrolled under the new General Permit on June 2, 1997, under the same WDID No. 4B19S001401. By filing an NOI, the Permittee is required to comply with all terms and conditions of this General Permit, which includes submission of an annual report to the

Regional Board, as well as implementation of an effective storm water pollution prevention plan.

6. The General Permit requires each permittee to submit an annual report by July 1 of each year. Regional Board records show that the Permittee has not submitted three annual reports due in years from 1996 through 1998. The Permittee has been in violation of the General Permit for 1002 days (July 2, 1996 to March 29, 1999) and is civilly liable for a total of 1002 days of violation.
7. On January 10, 1997, the Regional Board sent the Permittee a notice reminding the Permittee to submit annual reports for 95/96 and 96/97. On January 16, 1998, the Regional Board issued a notice of non-compliance to the Permittee for failure to submit the annual reports. On April 28, 1998, the Regional Board issued a Notice of Violation (NOV) to the Permittee for failure to submit the 95/96 and 96/97 annual reports. On August 17, 1998, the Regional Board sent a non-compliance letter to the Permittee for failure to submit the 97/98 annual report. On December 3, 1998, the Regional Board issued an NOV to the Permittee for failure to submit the 97/98 annual report.
8. The Permittee has failed to respond to the Regional Board's notifications, and the Annual Reports have not been submitted to date. The Permittee is in violation of the General Permit, the Federal Clean Water Act, and the California Water Code. Accordingly, on December 22, 1998, the Executive Officer of the Regional Board issued Complaint No. 98-099, an Administrative Civil Liability for WDID No. 4B19S0001401. This Complaint alleged that the Permittee failed to submit annual reports for 95/96, 96/97, and 97/98.
9. Section 13385(a)(2) of the CWC provides that any person who violates any waste discharge requirements issued pursuant to the Federal Water Pollution Control Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. The total maximum liability that may be assessed for this violation is \$10,020,000.00.
10. In determining any liability to be imposed, CWC Section 13385(e) requires the Regional Board to consider the following factors:
 - a. Nature, circumstances, extent, and gravity of the violations: The Regional Board has provided adequate notification of the Permittee's violation, beginning with the first notice sent on January 10, 1997. However, the Permittee has failed to comply; therefore a reduction in the maximum civil liability is not warranted.
 - b. The ability to pay: The Regional Board lacks sufficient information to determine the Permittee's ability to pay. It is assumed, however, that the maximum liability of \$10,020,000.00 is in excess of the financial resources available to the Permittee. Therefore, a reduction in the civil liability is warranted.

- c. Prior history of violations: The Permittee has been in violation for three years since July 2, 1996, when its first annual report was due. Therefore, no reduction in the civil liability is warranted.
 - e. Economic benefit or savings: The Permittee realized cost savings by failing to perform required sampling and analyses and failing to prepare the annuals reports. Therefore, no reduction in the civil liability is warranted.
 - f. Other matters as justice may require: Staff time to prepare this Complaint is estimated to be \$900 (12 hours at \$75 per hour).
11. Recommended Civil Liability: Upon consideration of the foregoing factors as required by CWC Section 13385(e), on March 29, 1999, the Executive Officer issued a civil liability of \$8,400.00 for violation of the General Permit requirements from July 2, 1996 to March 29, 1999. Upon consideration and deliberation of the evidence presented at the Hearing on April 22, 1999, the Regional Board affirmed the imposition of an administrative liability in the amount of \$8,400.00.

IT IS HEREBY ORDERED that, pursuant to Section 13323 of the California Water Code, Beneto Truck Terminal shall make payment of \$8,400.00 by certified check or money order payable to the Cleanup and Abatement Account at the State Water Resources Control Board by Monday May 24, 1999.

In the event that Beneto Truck Terminal fails to comply with the requirements of this Directive for Amended Complaint No. 98-099, the Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement.

I, Dennis A. Dickerson, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board on April 22, 1999.

Dennis A. Dickerson
Executive Officer

Dated: April 26, 1999